

MINUTES

COAL SURFACE MINING RECLAMATION FUND ADVISORY BOARD

Conference Room 219

August 28, 2012

10:00 a.m.

Present

Gavin Bledsoe
Randy Casey
John “Kelly” Gilmer, Jr.
Phil Mullins

Absent

Charles Hale
Scotty Rose

Also Present

Bradley Lambert
Sandy Smith
Greg Baker
John Belcher, VMA
Paul Vendetti, Pinnacle
John Wade, Pinnacle
Matthew Hepler, S.A.M.S.

A meeting of the Coal Surface Mining Reclamation Fund Advisory Board was held on August 28, 2012 at 10:00 a.m. at the Department of Mines, Minerals and Energy (DMME) Office in Big Stone Gap.

Chairman Phil Mullins opened the meeting. Mr. Mullins welcomed everyone and asked for a self introduction.

The purpose of this meeting was to discuss the final report on the actuarial study of the Virginia Coal Surface Mining Reclamation Fund as of June 30, 2011. The DMME/Division of Mined Land Reclamation (DMLR) retained Pinnacle Actuarial Resources, Inc. (Pinnacle) to perform an actuarial evaluation of the Virginia Coal Surface Mining Reclamation Fund. The report was prepared using data and information supplied by members of the DMME/DMLR staff. Board members received copies of the report.

Bradley Lambert, DMME Deputy Director, commented the report had been in a “Draft” form with comments being made between DMME/DMLR and Pinnacle. It is now a final report and made public for the first time on this date, August 28, 2012.

John Wade, Senior Consulting Actuary and Paul Vendetti, Senior Consulting Actuary with Pinnacle Actuarial Resources, Inc. discussed their positions and gave some background information of Pinnacle Resources and the types of studies they have prepared for other states.

Mr. Wade provided a review/discussion of the report. The purpose of the report was to review the financial soundness of the Virginia Coal Surface Mining Reclamation Fund. Mr. Wade commented that the Reclamation Fund program has not experienced a single permit forfeiture in many years, but there remains the possibility that a forfeiture could occur.

There were lengthy discussions of self-bonding, bond forfeiture rates and additional adjustment factors to forfeiture rates. Also, there were discussions of changing the Reclamation Tax structure by collecting taxes for all time periods of operation. John gave examples of worse case scenarios and provided alternatives to build up the Fund balance to be able to cover a shock loss (if a large company was to forfeit all permits, it would also forfeit all bonds).

Pinnacle will develop an amendment to the study to do a risk analysis with a goal of developing various confidence level percentages regarding the long term solvency of the Reclamation Fund in the event of a bond forfeiture.

Pinnacle offered the following recommendations to the Board:

- Pinnacle recommends movement away from the self-bonding option in a sense of equity to the other Reclamation Fund participants as well as to limit the exposure to the Fund. They recommend that any new increments on existing permits with the self-bonding option be required to provide other sources of financial security.
- Pinnacle recommends removing the Fund balance caps, allowing the Fund to build up to levels that would cover the largest loss possible from the default of the largest parent in the system. As this will take many years to get to such a level, Pinnacle recommends just removing the caps at this time. Caps can be revisited once the Fund balances start to approach desired levels.
- Pinnacle recommends changing the Reclamation Tax structure, removing the limitation of only collecting the tax on the first quarters of operation, and replacing it with collecting the tax during the entire period of operation.
- Pinnacle recommends no changes to the Reclamation Tax rates, other than the time period they apply.
- Pinnacle recommends no changes to the Reclamation Fund Entrance Fees at this time.
- Pinnacle recommends that the Reclamation Fund undergo periodic financial soundness reviews to consider and adjust the Fund's operating plan parameters as appropriate, taking into consideration recent historic and projected future economic conditions.

After review of the report was completed and there were no more questions from the Board, Mr. Wade and Mr. Vendetti left the meeting. The Board continued the meeting to discuss the recommendations made by Pinnacle.

Phil Mullins asked for a motion to accept the recommendations made by Pinnacle. The motion was made and seconded. The Board agreed unanimously to accept the recommendations.

The Board discussed eliminating self bonding. This issue has been discussed at previous meetings. The Deputy Director, Butch Lambert, advised he is the approver of self bonding, and the Department will no longer accept self bonding. The Fund may be subject to a liability in excess of \$25 million if all the self bonds failed. This amount is far in excess of the current Fund balance.

Mr. Lambert advised in order to begin the process, he will need a confirmation from the Board to abolish self bonding and make a recommendation to the Governor. Mr. Mullins stated it would be best to submit the entire package of recommendations at the same time. He asked for a motion to submit the recommendations for the elimination of self bonding; removing the Fund balance caps; and changing the assessment of reclamation taxes to collect on a continuous coal production basis. The motion was made and seconded. The Board unanimously agreed, subject to receiving Pinnacle's analysis.

Mr. Lambert stated the Virginia Mining Association and Coal Association should be informed of what is being proposed and ask for their support.

Greg Baker will contact Pinnacle and ask for their risk analysis report within 30 days.

Gavin Bledsoe will prepare a report with the recommendations to be sent to the DMME Director.

There being no further discussions, Phil Mullins asked for a motion to adjourn the meeting. A motion was made and seconded. The meeting was adjourned.